

Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of)
)
Number Portability Query Services) CC Docket No. 98-14
)
Ameritech Tariff F.C.C. No. 2,) CCB/CPD 98-26
Transmittal No. 1149, as Amended)
)
Bell Atlantic Tariff F.C.C. No. 1,) CCB/CPD 98-25
Transmittal No. 1041)
)
Pacific Bell Tariff F.C.C. No. 128,) CCB/CPD 98-23
Transmittal Nos. 1927 and 1973)
)
Southwestern Bell Tariff F.C.C. No. 73,) CCB/CPD 98-17
Transmittal Nos. 2638 and 2694)

Order

Adopted: August 18, 1998

Released: August 19, 1998

By the Commission:

I. Introduction

1. In this order, we conclude our investigation of the tariff revisions described in Ameritech Transmittal No. 1149, Bell Atlantic Transmittal Nos. 1041 and 1071, Pacific Bell Transmittal Nos. 1927 and 1973, and Southwestern Bell Transmittal Nos. 2638 and 2694. We allow Ameritech, Bell Atlantic, Pacific Bell, and Southwestern Bell to continue offering on an interim basis their long-term number portability query and database services under the rates and conditions contained in those tariff revisions. We require them, however, to file new rates, terms, and conditions for these query and database services at the same time that they tariff their long-term number portability end-user charges.

II. Background**A. The Provision of Long-Term Number Portability**

2. The inability of customers to retain their telephone numbers when changing local service providers hampers the development of local competition.¹ Section 251(b)(2) of the

¹ See *In re Telephone Number Portability, First Report and Order & Further Notice of Proposed Rulemaking*, 11 FCC Rcd. 8352, 8367-68 (1996) (Order & Further Notice) (citing evidence that business and residential customers are reluctant to switch carriers if they must change numbers).

Communications Act of 1934, as amended, seeks to remove this impediment to competition by requiring all local exchange carriers (LECs) "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."² To prevent the cost of providing number portability from itself becoming a barrier to local competition, section 251(e)(2) requires that "[t]he cost of establishing ... number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."³

3. In its *First Report and Order*, the Commission promulgated performance criteria that long-term number portability solutions must meet,⁴ and established a schedule for the phased deployment of long-term number portability.⁵ The *First Report and Order*, as modified by the *First Memorandum Opinion and Order on Reconsideration* (First Reconsideration Order), requires LECs to implement long-term number portability: (1) in Chicago, Philadelphia, Atlanta, New York, Los Angeles, Houston, and Minneapolis by March 31, 1998, during Phase I; (2) in the rest of the 100 largest metropolitan statistical areas (MSAs) by December 31, 1998, in quarterly stages during Phases II to V; and (3) thereafter in switches outside the 100 largest MSAs, within six months of a request by a telecommunications carrier.⁶ A number of carriers have also received extensions of the implementation deadlines.⁷ Thus, long-term number portability is currently available only in limited areas of the country.

4. Pursuant to the Commission's criteria, carriers are implementing long-term number

² 47 U.S.C. § 251(b)(2).

³ 47 U.S.C. § 251(e)(2).

⁴ See *Order & Further Notice*, 11 FCC Rcd. at 8355, 8371-85.

⁵ *Id.* at 8355, 8393-96, 8501-02.

⁶ See *In re Telephone Number Portability, First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 7236, 7283, 7326-27, 7346-47 (1997), *modifying Order & Further Notice*, 11 FCC Rcd. at 8355, 8393-96, 8482-85.

⁷ See, e.g., *In re Telephone Number Portability, Petitions for Extension of the Deployment Schedule for Long-Term Database Methods for Local Number Portability, Phase I*, CC Docket No. 95-116, *Order*, DA 98-614 (Network Servs. Div. rel. Mar. 31, 1998) (extending BellSouth's Phase I deadline for Atlanta to August 31, from March 31); *In re Telephone Number Portability, Petitions for Extension of the Deployment Schedule for Long-Term Database Methods for Local Number Portability, Phase II*, CC Docket No. 95-116, *Order*, DA 98-917 (Network Servs. Div. rel. May 15, 1998) (extending BellSouth's Phase II deadline for Miami, Fort Lauderdale, Orlando, and Tampa to September 30, from May 15; extending Pacific Bell's and U S WEST's Phase III deadlines to September 18 and 21, respectively, from June 30, and their Phase IV deadlines to October 19 and November 2, respectively, from September 30); *In re Telephone Number Portability, Petitions for Extension of the Deployment Schedule for Long-Term Database Methods for Local Number Portability, Phase III*, CC Docket No. 95-116, *Order*, DA 98-1265 (Network Servs. Div. rel. June 26, 1998) (extending BellSouth's Phase III deadline to October 31 from June 30, and Phase IV deadline to November 30 from September 30).

portability through a location routing number (LRN) architecture.⁸ Under an LRN architecture, each customer's telephone number is matched in one of seven databases⁹ with an LRN that identifies the switch that currently serves that telephone number.¹⁰ Neutral third parties, called local number portability administrators, administer these regional databases.¹¹ When a customer changes from one LEC to another, the carrier that wins the customer "ports" the customer's telephone number from the former carrier by electronically transmitting (uploading) the new LRN to the administrator of the relevant regional database.¹² This pairs the customer's original telephone number with the LRN for the switch of the new carrier, allowing the customer to retain the original telephone number. The regional database administrators electronically transmit (download) LRN updates to carriers responsible for routing telephone calls.¹³ When a carrier routes an interswitch telephone call to a location where number portability is available, the carrier will "query" this downloaded data to determine the LRN for the switch that serves the terminating telephone number of the call.¹⁴

B. The Commission's Orders

5. The Commission has approved the industry's "N minus one" (N-1) querying protocol.¹⁵ Under this protocol, the N-1 carrier is responsible for the query, "where 'N' is the entity terminating the call to the end user, or a network provider contracted by the entity to provide tandem

⁸ See *In re Telephone Number Portability, Second Report and Order*, 12 FCC Rcd. 12281, 12287 (1997) (Second Report and Order).

⁹ The databases roughly match the original Regional Bell Operating Company (RBOC) service territories.

¹⁰ See generally NORTH AMERICAN NUMBERING COUNCIL, LOCAL NUMBER PORTABILITY ADMINISTRATION SELECTION WORKING GROUP REPORT [hereinafter NANC RECOMMENDATION] App. D (Architecture & Administrative Plan for Local Number Portability) at 6, ¶ 7.2 (April 25, 1997), adopted, *Second Report and Order*, 12 FCC Rcd. at 12283-84; *Order & Further Notice*, 11 FCC Rcd. at 8359-60, 8399-8400, 8494-95; AIN PROGRAM, NATIONAL COMMUNICATIONS SYSTEM, LOCAL NUMBER PORTABILITY: AIN AND NS/EP IMPLICATIONS, § 6.1 (July 1996) [hereinafter LOCAL NUMBER PORTABILITY REPORT].

¹¹ See *Order & Further Notice*, 11 FCC Rcd. at 8400-01.

¹² See generally NANC RECOMMENDATION, *supra* note 10, App. E (LNPA Technical & Operational Requirements Task Force Report) app. a (Issues & Resolutions), p. 1, and app. b (Inter-Service Provider LNP Operations Flows), fig. 1 (Provisioning) & p. 2.

¹³ *Id.*

¹⁴ See *Order & Further Notice*, 11 FCC Rcd. at 8359-60, 8494-95; LOCAL NUMBER PORTABILITY REPORT, *supra* note 10, at §§ 2.3, 5. Calls originating and terminating on the same switch need not be queried. See NANC RECOMMENDATION, *supra* note 10, App. D (Architecture & Administrative Plan for Local Number Portability) at 10, ¶ 8 & fig. 2, scenarios 1 & 2.

¹⁵ *Second Report and Order*, 12 FCC Rcd. at 12323

access.”¹⁶ Thus, the N-1 carrier for a local call is usually the calling customer’s LEC; the N-1 carrier for an interexchange call is usually the calling customer’s interexchange carrier.¹⁷ Rather than perform its own querying, an N-1 carrier may arrange for other carriers or third parties to provide querying services for them.¹⁸ The Commission has determined that an incumbent LEC may charge an N-1 carrier for performing queries on the N-1 carrier’s behalf pursuant to such an arrangement.¹⁹ The Commission has also noted that an unqueried call might be routed by default to the LEC that originally served the telephone number, usually an incumbent LEC.²⁰ This could happen, for example, if the N-1 carrier does not ensure that its calls are queried, either through its own query capability or through an arrangement with a third party, or if there is a technical failure in the N-1 carrier’s ability to query. The Commission has determined that an incumbent LEC may charge the N-1 carrier for querying default-routed calls.²¹ The Commission determined further that it would “allow LECs to block default-routed calls, but only in specific circumstances when failure to do so is likely to impair network reliability.”²² The Commission also said that it would “require LECs to apply this blocking standard to calls from all carriers on a nondiscriminatory basis.”²³

6. The Commission released its *Third Report and Order* in the long-term number portability proceeding on May 12, 1998.²⁴ In that order, the Commission promulgated rules governing long-term number portability cost recovery.²⁵ Under those rules, incumbent LECs may recover their carrier-specific costs directly related to providing long-term number portability in two federal charges: 1) a monthly number-portability charge to commence no earlier than February 1, 1999, that applies primarily to end users;²⁶ and 2) a number portability query-service charge, which applies to carriers on

¹⁶ NANC RECOMMENDATION, *supra* note 10, app. D (Architecture & Administrative Plan for Local Number Portability) at 8, ¶ 7.8.

¹⁷ *Id.* at attachment A (Example N-1 Call Scenarios); LOCAL NUMBER PORTABILITY REPORT, *supra* note 10, at § 9.1.3. & fig. 9-3 (N-1 Network Query).

¹⁸ *See Order & Further Notice*, 11 FCC Rcd. at 8404.

¹⁹ *See Second Report and Order*, 12 FCC Rcd. at 12324.

²⁰ *Id.* at 12324-25.

²¹ *Id.* at 12325-26.

²² *Id.* at 12324-25.

²³ *Id.* at 12325-26.

²⁴ *In re Telephone Number Portability*, CC Docket No. 95-116, *Third Report and Order*, FCC 98-82 (rel. May 12, 1998) (Third Report and Order).

²⁵ *See* 47 C.F.R. §§ 52.32-52.33.

²⁶ *See* 47 C.F.R. §§ 52.33(a), (a)(1).

whose behalf the LEC performs queries.²⁷

7. The Commission also concluded in the *Third Report and Order* that "carrier-specific costs directly related to providing number portability are limited to costs carriers incur specifically in the provision of number portability services, such as for the querying of calls and the porting of telephone numbers from one carrier to another."²⁸ They do not include, however, "costs that carriers incur as an incidental consequence of number portability."²⁹ Thus, instead of allowing an incumbent LEC to "classify the entire cost of an upgrade as a carrier-specific cost directly related to providing number portability just because some aspect of the upgrade relates to the provision of number portability,"³⁰ the Commission stated it would allow an incumbent LEC to treat as directly related to number portability only "that portion of a carrier's joint costs that is demonstrably an incremental cost carriers incur in the provision of long-term number portability."³¹ To help determine the portion of joint costs incumbent LECs may treat as carrier-specific costs directly related to providing number portability, the Commission asked interested parties to file comments by August 3, 1998, proposing ways to apportion the different types of joint costs. Reply comments are due September 16, 1998.³² The Commission also "delegate[d] authority to the Chief, Common Carrier Bureau, to determine appropriate methods for apportioning joint costs among portability and nonportability services, and to issue any orders to provide guidance to carriers before they file their [end-user] tariffs, which are to take effect no earlier than February 1, 1999."³³

C. *The Incumbent LECs' Tariff Revisions for Number Portability Query and Database Services*

8. In March and April 1998, before the Commission released its order on long-term number portability cost recovery, Ameritech, Bell Atlantic, Pacific Bell, and Southwestern Bell filed tariff revisions pertaining to the provision of long-term number portability query and database services.³⁴ The Competitive Pricing Division of the Common Carrier Bureau concluded that these

²⁷ See 47 C.F.R. §§ 52.33(a), (a)(2).

²⁸ *Third Report and Order* at ¶ 72.

²⁹ *Id.*

³⁰ *Id.* at ¶ 73.

³¹ *Id.*

³² *Id.* at ¶ 75.

³³ *Id.*

³⁴ See Ameritech Tariff F.C.C. No. 2, Transmittal No. 1149 (filed Mar. 31, 1998) (Ameritech Transmittal No. 1149); Bell Atlantic Tariff F.C.C. No. 1, Transmittal No. 1041 (filed Apr. 6, 1998) (Bell Atlantic Transmittal No. 1041), *modified*, Transmittal No. 1071 (filed Aug. 13, 1998); Pacific Bell Tariff F.C.C. No. 128, Transmittal No. 1927 (filed July 7, 1997), *modified*, Transmittal No. 1973 (filed Mar. 13, 1998) (Pacific Bell Transmittal No. 1973); Southwestern Bell Tariff F.C.C. No. 73, Transmittal No. 2638 (filed June 6, 1997),

tariff revisions raised substantial questions of lawfulness, suspended them for one day, and set them for investigation under section 204 of the Communications Act of 1934, as amended.³⁵ Section 204 allows the Commission to suspend any new or revised charge or practice, initiate an investigation, require the carrier to keep accurate account of all amounts it receives under the charge, and order the carrier to issue refunds.³⁶

9. On June 17, 1998, after the Commission had completed its cost-recovery order, the Division designated issues for the investigation of the long-term number portability query and database services of Ameritech, Bell Atlantic, Pacific Bell, and Southwestern Bell.³⁷ In particular, the Division designated for investigation certain issues regarding the way the incumbent LECs developed their charges, such as "whether the carriers' proposed query-service charges are based on costs directly related to providing number portability query services,"³⁸ "whether the carriers' proposed allocations of total number portability costs to query services are reasonable,"³⁹ "whether the carriers' methodologies and assumptions used to develop their proposed rates are reasonable,"⁴⁰ and "whether the carriers' demand forecasts [for query services] are reasonable."⁴¹

10. The Division also designated issues concerning the terms and conditions of the incumbent LECs' services. As noted above, the Commission previously determined that carriers may block default-routed traffic when the traffic could impair network reliability. Ameritech's tariff

modified, Transmittal No. 2694 (filed Mar. 4, 1998) (Southwestern Bell Transmittal No. 2694).

³⁵ See *In re Ameritech Tariff* F.C.C. No. 2, Transmittal No. 1149, as Amended, CCB/CPD 98-26, *Memorandum Opinion and Order*, DA 98-648 (Competitive Pricing Div. rel. Apr. 3, 1998); *In re Bell Atlantic Tariff* F.C.C. No. 1, Transmittal No. 1041, CCB/CPD 98-25, *Memorandum Opinion and Order*, DA 98-686 (Competitive Pricing Div. rel. Apr. 9, 1998); *In re Bell Atlantic Revisions to Tariff* F.C.C. No. 1, CCB/CPD 98-47, *Memorandum Opinion and Order*, DA 98-1646 (Competitive Pricing Div. rel. Aug. 17, 1998) (incorporating subsequent Bell Atlantic revisions into investigation); *In re Pacific Bell Tariff* F.C.C. No. 128, Transmittal No. 1973, CCB/CPD 98-23, *Memorandum Opinion and Order*, DA 98-598 (Competitive Pricing Div. rel. Mar. 27, 1998); *In re Southwestern Bell Tariff* F.C.C. No. 73, Transmittal No. 2694, CCB/CPD 98-17, *Memorandum Opinion and Order*, DA 98-530 (Competitive Pricing Div. rel. Mar. 18, 1998); *In re Pacific Bell Tariff* F.C.C. No. 128, Transmittal Nos. 1927 and 1973, and Southwestern Bell Tariff F.C.C. No. 73, Transmittal Nos. 2638 and 2694, *Memorandum Opinion and Order*, DA 98-1024 (Competitive Pricing Div. rel. May 29, 1998).

³⁶ See 47 U.S.C. § 204(a)(1).

³⁷ See *In re Number Portability Query Services*, CC Docket No. 98-14, *Order Designating Issues for Investigation*, DA 98-1173 (Competitive Pricing Div. rel. June 17, 1998) (Designation Order).

³⁸ *Id.* at ¶ 7.

³⁹ *Id.* at ¶ 8.

⁴⁰ *Id.* at ¶ 9.

⁴¹ *Id.* at ¶ 11.

revisions, however, state that it will block both prearranged and default query traffic when such traffic threatens to disrupt the operation of its network and impair network reliability.⁴² Thus the Division designated for investigation whether Ameritech may block prearranged traffic as well as default traffic, and whether its criteria for determining when it will block traffic comport with the Commission's orders.⁴³ The Division also designated as an issue for investigation the reasonableness of Ameritech's requirement that carriers that request prearranged query services provide separate, rolling, three-month estimates of the volume of traffic they intend to deliver to Ameritech end offices and tandem offices, including total monthly traffic, maximum busy hour volumes, and the Ameritech switch over which they intend to route this traffic.⁴⁴ Lastly, the Division designated for investigation the reasonableness of the plans of Bell Atlantic, Pacific Bell, and Southwestern Bell to assess query charges on N-1 carriers that route unqueried traffic to NXXs⁴⁵ where number portability is available, even when no numbers have been ported in the NXX.⁴⁶

III. Discussion

11. The Communications Act states that the Commission is to "issue an order concluding [a section 204] hearing within 5 months after the date that the charge, classification, regulation, or practice subject to the hearing becomes effective."⁴⁷ Of the tariff revisions subject to the pending investigation, the first to take effect were Southwestern Bell's. They took effect March 20, 1998, after the Commission suspended them for one day.⁴⁸ Consequently, the Commission is to conclude the investigation, at least with respect to the tariff revisions of Southwestern Bell, by August 20, 1998.

12. The Commission cannot determine at this time whether the incumbent LECs' tariff revisions for long-term number portability query and database services are reasonable or otherwise lawful. To make such a finding, the Commission must determine: 1) whether the incumbent LECs have accurately identified their carrier-specific costs directly related to number portability, and 2)

⁴² *Ameritech Transmittal No. 1149*, at 3rd Revised Page 166.4.3.

⁴³ *Designation Order* at ¶ 12.

⁴⁴ *Id.* at ¶ 13.

⁴⁵ Under the North American Numbering Plan (NANP), every telephone number takes the form (NPA) NXX-XXXX. The NPA, or "numbering plan area," is the three digit area code. The NXX is a three digit code that identifies the telephone company central office originally assigned the telephone number. The last four digits identify the specific telephone line serving the customer's location. See LOCAL NUMBER PORTABILITY REPORT, *supra* note 10, at §§ 2.0-2.5.

⁴⁶ *Designation Order* at ¶ 14.

⁴⁷ 47 U.S.C. § 204(a)(2)(A).

⁴⁸ See *In re Southwestern Bell Tariff* F.C.C. No. 73 for Provision of Long-Term Number Portability Database Related Services, CCB/CPD 98-17, *Memorandum Opinion and Order*, DA 98-530 (Competitive Pricing Div. rel. Mar. 18, 1998).

whether they have appropriately allocated those costs between their query- and end-user charges. The Commission will not be in a position to determine whether the incumbent LECs have appropriately identified their carrier-specific costs directly related to number portability until after the Bureau has reviewed the August 3 comments and September 16 replies in the pending proceeding.⁴⁹ The Commission will also be unable to determine whether the incumbent LECs have appropriately allocated those costs between the query and end-user charges until after the incumbent LECs have tariffed their end-user charges, which the Commission expects will occur in January 1999.

13. We will allow these incumbent LECs to continue providing their long-term number portability query and database services on an interim basis under their currently tariffed rates and conditions.⁵⁰ The continued provision of these services is essential to the development of number portability, particularly now while it is in its nascent stages. Many carriers have not had a full opportunity to make the investments necessary to perform their own queries, and so are relying upon the availability of the query and database services from other carriers. We will require, however, that the incumbent LECs file new tariff revisions regarding their rates and conditions for the query and database services when they file their end-user charges.⁵¹ This will allow the Commission to revisit these issues when the Commission and carriers have had more experience with number portability services. The Commission will also be in a better position to evaluate the reasonableness of the incumbent LECs' rates and conditions because the Bureau will have had a chance to review the carriers' comments and replies on the identification of number portability costs, and because the Commission will have before it both the query and end-user charges.

14. A number of parties⁵² ask the Commission to declare the tariff revisions unlawful on the grounds that the incumbent LECs have failed to demonstrate that the revisions comply with the cost recovery order, and have not met their section 204 burden of establishing that their tariff revisions

⁴⁹ Cf. *Ameritech Direct Case* at 1-2 (arguing that investigating the query service is premature in light of the continuing inquiry on carrier-specific costs); *Consolidated Response of Southwestern and Pacific Bell* at 2-3 (noting that the cost recovery order adopts for the first time a broad standard for identifying number portability costs eligible for recovery through end-user and query charges, but that these standards will be developed in greater detail in response to carrier comments and an ongoing inquiry).

⁵⁰ Cf. *Ameritech Direct Case* at 3 (arguing the Commission should leave the query-service rates in place until the Commission has established the applicable rules and Ameritech has had an opportunity to file revised cost studies); *Bell Atlantic Direct Case* at 1 (arguing that the Commission should not find a tariff unlawful or require refunds based on principles that were not in effect at the time the tariff was filed).

⁵¹ Cf. *Ameritech Direct Case* at 3 (arguing the Commission should leave the query-service rates in place until the Commission has established the applicable rules and Ameritech has had an opportunity to file revised cost studies).

⁵² The deadline for filing oppositions to the incumbent LECs direct cases was July 10, 1998. Time Warner filed its opposition July 13. We grant Time Warner's motion to accept its late-filed pleading. See 47 C.F.R. § 1.3 (stating that "[a]ny provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown").

are "just and reasonable."⁵³ AirTouch Communications specifically asks that the Commission prescribe rates.⁵⁴ In support of these requests, the commenters argue that the incumbent LECs do not provide sufficient detail in their tariff revisions and direct cases to indicate the nature of the costs that their rates are designed to recover, or to justify how they have allocated those costs to their database and query services.⁵⁵ They argue that the incumbent LECs have violated the cost recovery order by including general overhead costs in their rates,⁵⁶ and have not justified their non-recurring charges⁵⁷ or demand forecasts.⁵⁸ They also challenge the plans of some of the incumbent LECs to charge for queries in NXXs where no numbers have been ported,⁵⁹ as well as the plans of Ameritech to require that customers of prearranged query service provide detailed traffic estimates,⁶⁰ and to block prearranged query traffic that exceeds those estimates by a certain margin.⁶¹

15. We find that these transmittals present the Commission with unusual circumstances that justify the continuation of the existing terms and conditions on an interim basis, and so decline at this time to declare the tariff revisions unlawful or to prescribe rates. The incumbent LECs are required to provide default query services, and cannot do so except under tariff. Thus the incumbent LECs tarified the services, but did so before they had the benefit of the Commission's guidance in the

⁵³ AirTouch Communications Opposition at 6, 30-31; AT&T Opposition at i, 1-2, 32; Comcast Cellular Opposition at i; MediaOne Opposition at 7; Sprint Spectrum Opposition at 1, 11; Vanguard Cellular Opposition at 1, 10.

Section 204 states that "[a]ny hearing involving a new or revised charge, or a proposed new or revised charge, the burden of proof to show that the new or revised charge, or proposed charge, is just and reasonable shall be upon the carrier." 47 U.S.C. § 204(a).

⁵⁴ AirTouch Communications Opposition at 6, 30-31.

⁵⁵ AirTouch Communications Opposition at 2-13, 15-17; AT&T Opposition at i-ii, 1-9, 12-17; MediaOne Opposition at 2-3; Sprint Spectrum Opposition at 1-6; Time Warner Opposition at 6-7.

⁵⁶ AirTouch Communications Opposition at 2-5, 14-15; AT&T Opposition at i, 9-12; MediaOne Opposition at 2-3; Sprint Spectrum Opposition at 3-4; Time Warner Opposition at 5-6.

⁵⁷ AirTouch Communications Opposition at 18-19; AT&T Opposition at ii, 20-21; Sprint Spectrum Opposition at 6-7.

⁵⁸ AirTouch Communications Opposition at 19-23; AT&T Opposition at ii, 17-20; Sprint Spectrum Opposition at 7-8.

⁵⁹ AirTouch Communications Opposition at 24-27; AT&T Opposition at iii, 23-31; Comcast Cellular Opposition at i, 4-15; Nextel Opposition at 5-7; Sprint Spectrum Opposition at 9-10; Time Warner Opposition at 2, 3, 8-9; Vanguard Cellular Opposition at 2-8.

⁶⁰ AirTouch Communications Opposition at 27-29; AT&T Opposition at ii, 22-23; MediaOne Opposition at 5-6; Sprint Spectrum Opposition at 9.

⁶¹ AT&T Opposition at ii, 21-22; Sprint Spectrum Opposition at 8.

*Third Report and Order.*⁶² The incumbent LECs' long-term number portability query and database services raise novel and complex issues, and, for the reasons given above, we will not be able to resolve them immediately.⁶³ These are new services with which neither the Commission nor carriers have had much experience and, as discussed above, the Commission will not be able to determine what rates and conditions are reasonable until issues are resolved regarding both the identification of costs directly related to number portability, and the allocation of those costs between query and end-user charges.⁶⁴

16. Although we make no judgment as to whether the current rates and conditions are reasonable, and in compliance with Commission decisions on number portability, we observe that the rates do not appear facially unreasonable.⁶⁵ We also note that number portability is still in its early stages of implementation, and thus these services are being provided in only limited areas of the country. We conclude that it is better to allow the carriers to continue to offer these services under these tariff revisions pending determination of a preferred approach, than to attempt at this stage to fine-tune the rates and conditions.⁶⁶ The interim rates and conditions will be in place for a relatively short time, as we are requiring the incumbent LECs to file new tariff revisions for query and database services when they file their end-user charges.⁶⁷ The Commission expects that the incumbent LECs

⁶² See *Ameritech Direct Case* at 2 (noting that Ameritech filed its query-service tariff revisions before the Commission released the cost-recovery order and had to file its direct case only eight days after release of the order); *Bell Atlantic Direct Case* at 1 (noting that Bell Atlantic developed its tariff revisions before the Commission issued its cost recovery order, applying Commission practices that were then in effect, and that the order prescribed a cost recovery mechanism for number portability that differs from the Commission's usual practices); Consolidated Response of Southwestern and Pacific Bell at 2 (arguing that "the precision of the SBC LECs submissions ... was limited somewhat because the FCC's then-issued orders did not clearly define the parameters of cost recovery or query services").

⁶³ Cf. *In re Investigation of Access and Divestiture Related Tariffs, Memorandum Opinion and Order*, 97 FCC.2d 1082, 1085-86. (1984) (explaining in *Phase I* of its 1984 access investigation, having just established the system of access charges following the divestiture of AT&T, that "because of the novelty, breadth, and complexity of the issues raised by these [access] tariffs, it may not be possible to resolve all issues immediately").

⁶⁴ Cf. *id.* at 1098 (concluding that the Commission could not judge whether certain switched access rates were reasonable without more information).

⁶⁵ Cf. *id.* at 1098-99. Bell Atlantic is charging .26 cents for tandem and end-office queries, and .07 cents per database dip; Pacific Bell is charging .15 cents for all three services; Southwestern Bell is charging .14 cents for all three services; and Ameritech is charging .52 cents for tandem and end-office queries. Ameritech has not tariffed with the Commission a database service.

⁶⁶ Cf. *id.* at 1099. (concluding that "[m]onitoring of the effects of the [switched access] rates should be more practical and effective than attempting to fine tune these rates initially").

⁶⁷ Cf. *In re Investigation of Special Access Tariffs of Local Exchange Carriers, Memorandum Opinion and Order*, 5 FCC Rcd. 1717, 1718-19 (1990) (terminating investigation of special access rates of U S WEST filed under what was then new access charge system, and declining to issue refunds, on the grounds that "the rates in

will make these filings no later than January 1999 so as to have their end-user charges in place by February 1999. Petitioners will be able to renew their claims at that time. In the interim, if customers feel aggrieved by either the rates or conditions under which the incumbent LECs are currently providing these services, they may file complaints pursuant to section 208.⁶⁸

IV. Ordering Clauses

17. Accordingly, IT IS ORDERED that, pursuant to section 204(a)(2)(A) of the Communications Act, 47 U.S.C. § 204(a)(2)(A), the investigation of the tariff revisions described in Ameritech Transmittal No. 1149, as amended, Bell Atlantic Transmittal Nos. 1041 and 1071, Pacific Bell Transmittal Nos. 1927 and 1973, and Southwestern Bell Transmittal Nos. 2638 and 2694 IS TERMINATED.

18. IT IS FURTHER ORDERED that, pursuant to sections 4(i), 4(j), 251(b)(2), 251(e)(2), and 303(r) of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 251(b)(2), 251(e)(2), and 303(r), and section 52.33(a) of the Commission's rules, 47 C.F.R. § 52.33(a), Ameritech, Bell Atlantic, Pacific Bell, and Southwestern Bell shall file new rates and conditions for their provision of long-term number portability query and database services at the time they tariff their long-term number portability end-user charges.

Federal Communications Commission



Magalie Roman Salas
Secretary

question were part of a partially new regime and were, in a very real sense, interim in nature").

⁶⁸ Section 208 states that

[a]ny person ... complaining of anything done or omitted to be done by any common carrier subject to this Act, in contravention of the provisions thereof, may apply to said Commission by petition which shall briefly state the facts, whereupon a statement of the complaint thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time to be specified by the Commission. ... If such carrier or carriers shall not satisfy the complaint within the time specified or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

47 U.S.C. § 208(a).